

### Remarks

#### Premature Final Rejection Under 35 USC §102(b)

The Examiner newly cited the Eastman Outdoors Sausage Stuffer to finally reject all claims under 35 USC §102(b). According to MPEP §706.07(a), where a new ground of rejection is introduced by the Examiner, which rejection is not necessitated by an amendment of the claims by the applicant, the issuance of a final rejection is improper. In the present case, original independent Claims 11 and 18 were not amended during prosecution of the present application. Consequently, because independent Claims 11 and 18 were not previously rejected under 35 USC §102 in view of the Eastman Outdoors Sausage Stuffer, the rejection of those claims in view thereof comprises new grounds of rejection that were not necessitated by amendment.

Applicant requests that the finality of the rejection be withdrawn. Furthermore, the claim amendments presented *supra* should be entered as a matter of right.

#### Claim Rejections under 35 U.S.C. §102 (Anticipation)

The Examiner rejected Claims 1-18 under 35 USC §102 as being anticipated by Eastman Outdoor Sausage Stuffer. Applicant respectfully traverses the rejection inasmuch as the rejection applies to the claims as amended.

"A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described in a single prior art reference." *Vandergaal Bros. v. Union Oil of California*, 814 F.2d 628, 631; 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131. (Emphasis added). "Every element of the claimed invention must be literally present arranged as in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). (Emphasis added). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). MPEP §2131. Consequently, to uphold an anticipation rejection, there must be identity of invention.

Eastman does not disclose a bell-shaped tube

Claims 1, 11, and 18 recite a bell-shaped tube. Eastman clearly teaches a main body with a tapering end to which a cylindrical tube is attached. Eastman does not teach a bell-shaped tube.

Eastman does not disclose equal diameters for the inlet and outlet

Amended Claims 1, 11, and 18 now include the limitation: "said horn inlet with a first diameter and said horn outlet with a second diameter substantially similar to said first diameter" Eastman clearly discloses an outlet having a significantly smaller diameter than the inlet. Specifically, Eastman shows a main body tapering to a smaller diameter to which a cylindrical tube is attached.

Eastman does not disclose an outlet receiving a bell-shaped tube

Claim 1 recites the horn outlet being configured to receive the bell-shaped tube. Claims 11 and 18 recite a collar arranged to secure the bell-shaped tube proximate the horn outlet. Eastman does not teach a bell-shaped tube, therefore, Eastman cannot teach the aforementioned claim limitations.

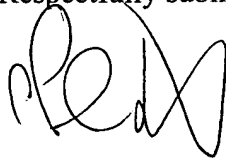
For the reasons presented above, Eastman does not anticipate Claims 1, 11, or 18. Claims 2-10, dependent from Claim 1, enjoy the same distinction from the cited prior art. Claims 11-17, dependent from Claim 11, also enjoy the same distinction from the cited prior art. The rejection should be removed.

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**Conclusion**

For the reasons set forth above, Applicant respectfully submits that the present application is now in condition for allowance, which action is courteously requested

Respectfully submitted,



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